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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,479	02/06/2004	Willis J. Mullet	WAY.P.US0095	7073

7590 04/19/2006

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EXAMINER

BANGACHON, WILLIAM L

ART UNIT PAPER NUMBER

2612

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/773,479

Applicant(s)

MULLET, WILLIS

Examiner

William L. Bangachon

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 12-22 and 37-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 23-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election without traverse of claims 1-8, 9-11, 23-26, and 27-36 (Group II) in the reply filed on 1/27/2006 is acknowledged.

### *Specification*

2. The title of the invention is objected to. The title of the invention should be brief but technically accurate and descriptive, preferably from **two to seven words** may not contain more than 500 characters. See 37 CFR 1.72(a) and MPEP § 606.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {hereinafter "Rhodes et al"} in view of USP 5,027,553 {hereinafter "Vergara"}.

With regards to claim 1, Rhodes do not disclose elements comprising a conventional motorized garage door systems. However, Rhodes et al teach of an adjunct device 10 for use with conventional motorized garage door (i.e. barrier) opener

Art Unit: 2612

and closer system operated by remote transmitters and receivers {col. 3, lines 29-32+} for the purpose of automatically closing the garage door after a predetermined period of time {col. 2, lines 48-51}. As such, Rhodes cites Vergara to teach of one such conventional motorized garage door system comprising a motor for moving the garage door between opened and closed positions and an operator for controlling operation of said motor. Manual open/close switch on walls actuates said motor to move the garage door in the appropriate direction {Rhodes, col. 2, lines 5-15; Vergara, col. 2, lines 12-31+}. Therefore, although Rhodes do not disclose the elements comprising a conventional motorized garage door, it would have been obvious to one of ordinary skill in the art to incorporate the adjunct device of Rhodes with a conventional motorized garage door opener, as taught by Vergara, because the adjunct device 10 of Rhodes offers additional security to a conventional motorized garage door opener. The adjunct device (i.e. wall station) used with the conventional motorized garage door of Vergara have a transmitter 148 shown in figure 6B, for sending operational signals to said motor operator. Said adjunct device also having a manual-close/auto-close selector switch 32, wherein if an auto-close mode is selected said operator automatically closes the barrier if left open for a predetermined period of time such as 45 seconds {Rhodes, col. 4, lines 11-15}.

With claim 8, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have the timer element of Rhodes described in col. 4, lines 57-61, cascaded with several timers shown in a conventional garage opener

Art Unit: 2612

{Rhodes, paragraph bridging cols. 1 and 2}, is adjusted by turning on or off anyone of the cascaded timers, depending on how fast the homeowner can drive the car out because if the preset time of 45 seconds is not long enough, the homeowner will have to keep disabling the auto-close mode. And it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have said adjunct transmitter 148, made to include a receiver to function as a transceiver.

8. Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {Rhodes et al} and USP 5,027,553 {Vergara}, and further in view of USP 5,388,691 {hereinafter "White"}.

In claim 2, Rhodes et al teach of opening and closing the garage door when the transmitter 148 is operated {col. 5, lines 38-40} along with the auto-close switch 38 enclosed in the adjunct device casing 12. However, Rhodes do not disclose "a cover positionable with respect to said casing, wherein said cover in a first position permits access to said switches and in a second position conceals said switches but allows actuation of said open/close switch". These types of cover can be found in most cellular phones or remote controllers for protecting keys from getting accidentally actuated. As such, White in the same field of endeavor, teach of a remote control protective cover as shown in figures 1-6. It would have been obvious that by placing a protective cover on the adjunct device casing of Rhodes is beneficial, as taught by White {White, col. 1, lines 33-40}, because this will protect the auto-close switch from getting accidentally

Art Unit: 2612

activated and thereby prevent injuries or damage from an automatically closing garage door, to one of ordinary skill in the art.

In claim 3, said cover comprises an exterior surface; an interior surface opposite said exterior surface as shown in the figures of White. Since the remote transmitter of White is for opening garage doors {White, col. 2, lines 45-56}, the nub extending from said interior surface as shown in the drawings, is in juxtaposition with said open/close switch when said cover is in said second position; and said cover is slidable (i.e. movable) in said second position to allow actuation of said open/close switch with said nub.

In claim 4, since the protective cover of White is slidable it would have been obvious to one of ordinary skill in the art to make the exterior surface of the protective cover a little rougher in texture (i.e. distinguishable tactile surface opposite said nub) to make the slidable cover move without the fingers sliding on the surface.

9. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {Rhodes et al} and USP 5,027,553 {Vergara}, and further in view of USP 5,576,701 {hereinafter "Heitschell et al"}.

Regarding claims 5-7, Rhodes teaches of conventional remote transmitters capable of sending operational signals to said operator and moving the barrier in the appropriate direction. As such, Heitschell et al, in the same field of endeavor (garage door systems), is relied upon to teach of a conventional means of using a remote transmitter (24, 25, or 26) to open a garage door, as shown in figure 1, only when the

Art Unit: 2612

remote transmitter is recognized by the operator via a code transmitted by the remote transmitter, to be associated with the operator {Heitschell, col. 4, lines 12-29+}. Therefore, although Rhodes does not disclose expressly "said operator will only enable said auto-close mode if said keyless entry transmitter is associated therewith", it would have been obvious to one of ordinary skill in the art that only an associated transmitter is allowed to open the garage door, as evidenced by Heitschell. So that when the garage door is opened for a predetermined period of time, auto-close is activated.

10. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by USP 5,576,701 {Heitschell et al}.

With regards to claim 9, Heitschell teach of a garage door operator 10 shown in figure 1, comprising a head end unit 11 (i.e. operator) for actuating a motor (i.e. for moving a garage door). Control unit 38 (i.e. wall station) having an operate switch 39 (i.e. open/close switch) transmits an actuation {col. 3, lines 25-46+}. Clearly, anyone of transmitters 24, 25, or 26, can be a wall station transmitter when made stationary against a wall, such as the keypad transmitter 25 shown in figure 7.

Control unit 38 (wall station) includes a security switch 38 (i.e. an auto-close/blocking selector switch) which if enabled in a blocking mode, precludes said operator from receiving operational signals from any source other than the keypad transmitter 25, for the purpose of disallowing a lost or stolen transmitter from gaining access to a home {Heitschell, col. 8, lines 17-31}.

Art Unit: 2612

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,576,701 {Heitschell et al} in view of USP 6,437,527 {Rhodes et al}.

In claim 10, Heitschell et al do not disclose "an auto-close mode that when selected, said operator automatically closes the barrier if left open for a predetermined period of time". The adjunct device 10 of Rhodes is relied upon to teach of such features {Rhodes, col. 4, lines 11-15}. It would have been obvious to one of ordinary skill in the art to include such features, as claimed, in the system of Heitschell because Heitschell is concerned with security against theft and such features add another layer of security of Heitschell.

12. Claims 11 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,576,701 {Heitschell et al} and USP 6,437,527 {Rhodes et al}, and further in view of USP 5,388,691 {hereinafter "White"}.

Claims 11 and 23 recites the limitations of claim 2 and therefore rejected for the same reasons.

In claim 24, although Heitschell et al do not disclose **"a light controlled by said operator; and a light switch carried by said wall station, wherein said light switch is actuable by applying a force in one of two directions"**. Official notice is taken that these claim limitations are conventional in garage door openers and would have been obvious in the system of Heitschell because such features allows a user to see at night when opening or closing a garage door.

Claim 25 recites the limitations of claim 3 in combination with claims 23-24 and therefore rejected for the same reasons.

Claim 26 recites the limitations of claim 4 in combination with claims 23-25 and therefore rejected for the same reasons.

13. Claims 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {Rhodes et al} and USP 5,027,553 {Vergara}, and further in view of USP 5,576,701 {Heitschell et al}.

In claim 27, recites the combination of claims 1 and 9, and therefore rejected for the same reasons. Although, Rhodes et al do not disclose "an auto block mode", it would have been obvious to one of ordinary skill in the art to incorporate the auto block mode of Heitschell in the system of Rhodes because it adds another layer of security in the system of Rhodes by providing security against loss or theft of a keypad transmitter {Heitschell, paragraph bridging cols. 1 and 2}.

Claim 28 recites the combination of claims 1, 2 and 9, and therefore rejected for the same reasons.

Claim 29 recites the combination of claims 1-3 and 9, and therefore rejected for the same reasons.

Claim 30 recites the combination of claims 1-4 and 9, and therefore rejected for the same reasons.

Art Unit: 2612

14. Claims 31-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 6,437,527 {Rhodes et al} and USP 5,027,553 {Vergara}, and USP 5,576,701 {Heitschell et al}, and further in view of USP 4,821,024 {Bayha}.

In claims 31-36, Rhodes et al teach of a manual visual deactivation element for signaling an on/off condition of the adjunct device which automatically closes the garage door after a predetermined amount of time {Rhodes, col. 2, lines 48-52}. Further, Rhodes teach of a conventional garage door opening/closing advance warning system {Rhodes, col. 2, lines 16-21}. Such advance warning systems alerts a person in the vicinity of a garage door opener of an eminent movement of the garage door {Bayha, paragraph bridging cols. 1 and 2}. The person is alerted with a warning signal that includes a warning light, an audible signal, or both. Bayha suggests that garage door advance warning systems are beneficial in that it prevents injuries and damages {Bayha, col. 1, lines 24+}. Therefore, although conventional garage doors opens or closes incrementally (slow and not abrupt), it would have been obvious to combine an advance warning system (as taught by Bayha) with a garage door opener having an auto-close feature (as taught by Rhodes), because these alerts a person in advance that the garage door opener is automatically closing to thereby stay out of the way and prevent harm or injuries to the person or vehicle, to one of ordinary skill in the art.

### ***Conclusion***

15. Please note that the Examiner's supervisor and art unit has been changed.

***Office Contact Information***

16. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to William Bangachon whose telephone number is **(571)-272-3065**. The Examiner can normally be reached on Monday – Thursday, 8:30 AM – 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy Garber can be reached on **(571)-272-7308**. The fax phone numbers for the organization where this application or proceeding is assigned is **571-273-8300** for regular and After Final formal communications. The Examiner's fax number is **(571)-273-3065** for informal communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

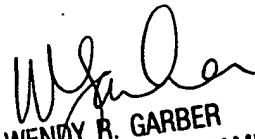
Application/Control Number: 10/773,479  
Art Unit: 2612

Page 12



William L Bangachon  
Examiner  
Art Unit 2635

April 17, 2006



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